

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JUSTIN FOWLER, and all others similarly
situated,

Plaintiff,

vs.

Civ. No. 23-640 WJ/SCY

MEDICINE MAN TECHNOLOGIES, INC.,
d/b/a/ SCHWAZZE, SCHWAZZE NEW
MEXICO, LLC, and R. GREENLEAF
ORGANICS, INC.,

Defendants.

ORDER ADOPTING PROPOSED FINDINGS AND RECOMMENDATION

This matter is before the Court on Magistrate Judge Steven C. Yarbrough’s July 18, 2024 Proposed Findings And Recommended Disposition (“PFRD”). Doc. 45. In that PFRD, Judge Yarbrough recommends that the Court finally approve the class action settlement and grant the attorney’s fee application. *Id.* at 7. Judge Yarbrough notified the parties that they had 14 days from service of the PFRD to file any objections to the PFRD. *Id.* at 9. The parties filed notices of non-objection to the PFRD, thereby waiving their right to review of the proposed disposition. *See United States v. One Parcel of Real Prop.*, 73 F.3d 1057, 1060 (10th Cir. 1996). Furthermore, upon review of the PFRD, the Court concurs with Judge Yarbrough’s findings and recommendation.

IT IS THEREFORE ORDERED THAT:

1. The Court ADOPTS Judge Yarbrough’s Proposed Findings and Recommended Disposition (Doc. 45);

2. The Motion for Final Approval of Class Settlement (Doc. 42) and Plaintiff's Unopposed Motion For Attorneys' Fees And Litigation Expenses (Doc. 43) are GRANTED; and

3. The Court finds:

a) A bona fide legal dispute between the Parties exists as to whether Settlement Class Members are owed any wages or redistributed tips; that is, whether statutory damages exist;

b) The settlement agreement, including all information contained in the Settlement Notice, is approved as fair, reasonable, adequate, and binding on all Settlement Class Members who have not timely opted out of the Settlement;

c) The procedure for Defendants to pay the Settlement Amount along with the employer's share of payroll taxes into the Qualified Settlement Fund ("QSF") as described in the Agreement is approved;

d) The Administration of the QSF as described in the Agreement is approved;

e) The claims of the Named Plaintiff, Opt-In Plaintiffs, and the New Mexico Class Members who have not timely opted out of the Settlement are dismissed with prejudice;

f) The Attorneys' Fees and Litigation Expenses set forth in the Agreement are approved;

g) The Service Award set forth in the Agreement is approved;

h) The Settlement Administration Costs to the Settlement Administrator in an amount not to exceed \$9,285.00 as set forth in the Agreement is approved;

i) A class comprising the New Mexico Class as defined in the Parties'

Agreement is certified for settlement purposes only pursuant to Rule 23(e) of the Federal Rules of Civil Procedure; and

j) The Court retains jurisdiction over the interpretation and implementation of the Settlement Agreement.

IT IS SO ORDERED.

/s/

WILLIAM P. JOHNSON
CHIEF UNITED STATES DISTRICT JUDGE